

**VEHICULAR ACCIDENTS WHILE ON
GOVERNMENT BUSINESS: WHO PAYS?**

1. This Comment responds to concerns about Government employee liability when the employee is involved in a motor vehicle accident while conducting Government business. Below is a brief discussion of this issue based on the type of vehicle involved. It is assumed that the employee is acting within the scope of employment at the time of the accident. An employee is acting “outside” the scope of employment, for example, when traveling outside a reasonable distance of the location of the employee’s Government business. In such cases, the employee will not be covered by the Federal Government in the manner indicated below.

2. It is also important to note that the Army Claims process will not cover damage to the vehicle operated by an employee found to be at fault or outside the scope of employment. However, many private insurance companies will act as a secondary insurer to cover property damage caused by Government employees performing official Government business and found legally obligated to pay for damage to (1) motor vehicles owned or leased by the Government, or (2) rented motor vehicles used for Government business. **You must review the coverage of your personal insurance policy to know where you stand.**

A. PRIVATELY OWNED VEHICLE (POV):

(1) EMPLOYEE AT FAULT.

3rd Party: Property damage and/or personal injury to any third parties are covered through the Army Claims process.

Employee: Property damage is not covered by Army Claims process. Property damage may be covered through your personal insurance company (see your policy). Personal injuries are covered under the Federal Employees Compensation Act (FECA) process.

(2) EMPLOYEE NOT AT FAULT.

3rd Party: Neither property damage or personal injury to third parties is covered through the Army Claims process. However, the employee should report the accident to the legal office and the employee’s private insurance company.

Employee: Property damage is covered by the other driver’s insurance company if the other driver is found at fault. Personal injuries will either be covered by the other driver’s insurance or FECA.

B. GOVERNMENT VEHICLE:

(1) EMPLOYEE AT FAULT.

3rd Party: Property damage and/or personal injury to any third party is covered through the Army Claims process.

Employee: The Army Claims process does not apply to damages incurred to Government vehicles. As Government property is involved, Report of Survey procedures will be followed (see AR 735-5, Policies and Procedures for Property Accountability). If the Report of Survey results in a finding that the operator is liable, he or she may be liable for no more than one month's base pay. (See paragraph 2 above on possible recovery from private insurer.) However, the Approving Authority may waive liability in cases involving damage to a government owned or leased motor vehicle through simple, but not gross, negligence. AR 735-5 defines **simple negligence** as "[t]he failure to act as a reasonably prudent person would have acted under similar circumstances." **Gross negligence** is defined as

[a]n extreme departure from the course of action to be expected of a reasonably prudent person, all circumstances being considered, and accompanied by a reckless, deliberate, or wanton disregard for the foreseeable consequences of the act.

Personal injuries are covered under the FECA process.

(2) EMPLOYEE NOT AT FAULT.

3rd Party: Property damage and/or personal injury to any third parties is not covered through the Army Claims process. However, the employee should report the accident to the legal office and the employee's private insurance company.

Employee: Pursuant to para. 14-29, AR 735-5, a Report of Survey is conducted for accidents involving third party civilians who are at fault but refuse to admit liability or admit liability but will not make restitution. After assessment of financial liability, the Approval Authority will forward the approved Report of Survey to the servicing claims office. The claims office will initiate action against the third party. Personal injuries are covered under FECA or the insurance of the third party who is at fault.

C. RENTAL VEHICLE:

(1) EMPLOYEE AT FAULT.

3rd Party: Property damage and/or personal injury to a third party is covered through the Military Traffic Management Command (MTMC) Agreement or Army Claims process if the MTMC Agreement does not apply.

AMSRL-CS-CC

SUBJECT: Vehicular Accidents While on Government Business: Who Pays?

Employee:

a. Property damage is covered through the MTMC Agreement when a car or passenger van is rented. Special rental vehicles (i.e., truck, utility vehicle, 4-wheel drive vehicle, etc.) are not covered by the MTMC agreement. Additionally, **the MTMC Agreement only applies where a third party is involved**. Personal injuries are covered under the FECA process.

b. For instances where the MTMC agreement does not apply, the rental agency's loss will be paid out of travel funds, and the employee's injuries are covered under FECA. The following procedures should be followed:

(i) upon return of the vehicle to the rental agency, obtain another rental vehicle;

(ii) **do not provide any personal insurance information to rental agency no matter how insistent the agency may be;**

(iii) obtain a written estimate from the rental agency for damages incurred--the agency should be familiar with working with the Government and realize that it will take approximately 4-6 weeks to receive their monies;

(iv) call Ms. Angee Acton, of this office, (301) 394-1072, if the rental agency refuses to provide you with another rental vehicle without your personal insurance information or requires you to charge it to your Government American Express; if Ms. Acton is not available, contact Mr. Timothy W. Connolly, of this office, at (301) 394-1073;

(v) upon return to your office, submit the damage estimate from the rental agency as a supplemental voucher with your travel reimbursement voucher. Note: damage expenses will be taken from the employee's office budget.

NOTE: If you travel overseas, to include Puerto Rico, and the rental car agency offers supplemental insurance (i.e., collision damage waiver insurance, etc.), you should buy it. It is a reimbursable expense for overseas TDY locations only.

(2) EMPLOYEE NOT AT FAULT.

3rd Party: Neither property damage or personal injury to third parties is covered through the Army Claims process. However, the employee should report the accident to the legal office and the employee's private insurance company.

Employee: If a third party is at fault, the rental agency is responsible for taking action against that party to collect for property damage. If the accident was caused by a defect in the rental vehicle, provide this information to the rental company and note the defect upon submission of your travel voucher. Negotiation of the deductible may be possible in this circumstance. Employee injuries are covered under FECA or the insurance of the "at fault" third party.

AMSRL-CS-CC

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3. A final determination of liability will depend on the particular facts and circumstances involved. Because the facts and circumstances of each case vary, official determinations can only be given on a case-by-case basis. And remember to “drive with care and make accidents rare.”

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